

THIRD DIVISION

[G. R. No. 144664, March 15, 2004]

ASIAN TRANSMISSION CORPORATION, PETITIONER, VS. THE HON. COURT OF APPEALS, THIRTEENTH DIVISION, HON. FROILAN M. BACUNGAN AS VOLUNTARY ARBITRATOR, KISHIN A. LALWANI, UNION, UNION REPRESENTATIVE TO THE PANEL ARBITRATORS; BISIG NG ASIAN TRANSMISSION LABOR UNION (BATLU); HON. BIENVENIDO T. LAGUESMA IN HIS CAPACITY AS SECRETARY OF LABOR AND EMPLOYMENT; AND DIRECTOR CHITA G. CILINDRO IN HER CAPACITY AS DIRECTOR OF BUREAU OF WORKING CONDITIONS, RESPONDENTS.

CARPIO MORALES, J.:

Petitioner, Asian Transmission Corporation, seeks via petition for *certiorari* under Rule 65 of the 1995 Rules of Civil Procedure the nullification of the March 28, 2000 Decision^[1] of the Court of Appeals denying its petition to annul 1) the March 11, 1993 "Explanatory Bulletin"^[2] of the Department of Labor and Employment (DOLE) entitled "Workers' Entitlement to Holiday Pay on April 9, 1993, *Araw ng Kagitingan* and Good Friday", which bulletin the DOLE reproduced on January 23, 1998, 2) the July 31, 1998 Decision^[3] of the Panel of Voluntary Arbitrators ruling that the said explanatory bulletin applied as well to April 9, 1998, and 3) the September 18, 1998^[4] Resolution of the Panel of Voluntary Arbitration denying its Motion for Reconsideration.

The following facts, as found by the Court of Appeals, are undisputed:

The Department of Labor and Employment (DOLE), through Undersecretary Cresenciano B. Trajano, issued an Explanatory Bulletin dated March 11, 1993 wherein it clarified, *inter alia*, that employees are entitled to 200% of their basic wage on April 9, 1993, whether unworked, which[,] apart from being Good Friday [and, therefore, a legal holiday], is also *Araw ng Kagitingan* [which is also a legal holiday]. The bulletin reads:

"On the correct payment of holiday compensation on April 9, 1993 which apart from being Good Friday is also *Araw ng Kagitingan*, i.e., *two regular holidays falling on the same day*, this Department is of the view that the covered employees are entitled to at least two hundred percent (200%) of their basic wage even if said holiday is unworked. The first 100% represents the payment of holiday pay on April 9, 1993 as Good Friday and the second 100% is the payment of holiday pay for the same date as *Araw ng Kagitingan*.

Said bulletin was reproduced on January 23, 1998, when April 9, 1998 was both Maundy Thursday and *Araw ng Kagitingan* . . .

Despite the explanatory bulletin, petitioner [Asian Transmission Corporation] opted to pay its daily paid employees only 100% of their basic pay on April 9, 1998. Respondent Bisig ng Asian Transmission Labor Union (BATLU) protested.

In accordance with Step 6 of the grievance procedure of the Collective Bargaining Agreement (CBA) existing between petitioner and BATLU, the controversy was submitted for voluntary arbitration. . . . On July 31, 1998, the *Office of the Voluntary Arbitrator rendered a decision directing petitioner to pay its covered employees "200% and not just 100% of their regular daily wages for the unworked April 9, 1998 which covers two regular holidays, namely, Araw ng Kagitignan and Maundy Thursday."* (Emphasis and underscoring supplied)

Subject of interpretation in the case at bar is Article 94 of the Labor Code which reads:

ART. 94. *Right to holiday pay.* — (a) Every worker shall be paid his regular daily wage during regular holidays, except in retail and service establishments regularly employing less than ten (10) workers;

(b) The employer may require an employee to work on any holiday but such employee shall be paid a compensation equivalent to twice his regular rate; and

(c) As used in this Article, "holiday" includes: New Year's Day, Maundy Thursday, Good Friday, the ninth of April, the first of May, the twelfth of June, the fourth of July, the thirtieth of November, the twenty-fifth and thirtieth of December and the day designated by law for holding a general election,

which was amended by Executive Order No. 203 issued on June 30, 1987, such that the regular holidays are now:

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| 1. New Year's Day | January 1 |
| 2. Maundy Thursday | Movable Date |
| 3. Good Friday | Movable Date |
| 4. <i>Araw ng Kagitingan</i>
(Bataan and
Corregidor Day) | April 9 |
| 5. Labor Day | May 1 |
| 6. Independence Day | June 12 |
| 7. National Heroes Day | Last Sunday of
August |
| 8. Bonifacio Day | November 30 |
| 9. Christmas Day | December 25 |
| 10. Rizal Day | December 30 |

In deciding in favor of the Bisig ng Asian Transmission Labor Union (BATLU), the Voluntary Arbitrator held that Article 94 of the Labor Code provides for holiday pay for every regular holiday, the computation of which is determined by a legal formula which is not changed by the fact that there are two holidays falling on one day, like on April 9, 1998 when it was *Araw ng Kagitingan* and at the same time was Maundy Thursday; and that that the law, as amended, enumerates ten regular holidays for

every year should not be interpreted as authorizing a reduction to nine the number of paid regular holidays “just because April 9 (*Araw ng Kagitingan*) in certain years, like 1993 and 1998, is also Holy Friday or Maundy Thursday.”

In the assailed decision, the Court of Appeals upheld the findings of the Voluntary Arbitrator, holding that the Collective Bargaining Agreement (CBA) between petitioner and BATLU, the law governing the relations between them, clearly recognizes their intent to consider *Araw ng Kagitingan* and Maundy Thursday, on whatever date they may fall in any calendar year, as paid legal holidays during the effectivity of the CBA and that “[t]here is no condition, qualification or exception for any variance from the clear intent that all holidays shall be compensated.”^[5]

The Court of Appeals further held that “in the absence of an explicit provision in law which provides for [a] reduction of holiday pay if two holidays happen to fall on the same day, any doubt in the interpretation and implementation of the Labor Code provisions on holiday pay must be resolved in favor of labor.”

By the present petition, petitioners raise the following issues:

I

WHETHER OR NOT THE RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN ERRONEOUSLY INTERPRETING THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PARTIES AND SUBSTITUTING ITS OWN JUDGMENT IN PLACE OF THE AGREEMENTS MADE BY THE PARTIES THEMSELVES

II

WHETHER OR NOT THE RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT ANY DOUBTS ABOUT THE VALIDITY OF THE POLICIES ENUNCIATED IN THE EXPLANATORY BULLETIN WAS LAID TO REST BY THE REISSUANCE OF THE SAID EXPLANATORY BULLETIN

III

WHETHER OR NOT THE RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN UPHOLDING THE VALIDITY OF THE EXPLANATORY BULLETIN EVEN WHILE ADMITTING THAT THE SAID BULLEITN WAS NOT AN EXAMPLE OF A JUDICIAL, QUASI-JUDICIAL, OR ONE OF THE RULES AND REGULATIONS THAT [Department of Labor and Employment] DOLE MAY PROMULGATE

IV

WHETHER OR NOT THE SECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE) BY ISSUING EXPLANATORY BULLETIN DATED MARCH 11, 1993, IN THE GUISE OF PROVIDING GUIDELINES ON ART. 94 OF THE LABOR CODE, COMMITTED GRAVE ABUSE OF DISCRETION, AS IT LEGISLATED AND INTERPRETED LEGAL PROVISIONS IN SUCH A MANNER AS TO CREATE OBLIGATIONS WHERE NONE ARE INTENDED BY THE LAW

V

WHETHER OR NOT THE RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN SUSTAINING THE SECRETARY OF THE DEPARTMENT OF LABOR IN REITERATING ITS EXPLANATORY BULLETIN DATED MARCH 11, 1993 AND IN ORDERING THAT THE SAME POLICY OBTAINED FOR APRIL 9, 1998 DESPITE THE RULINGS OF THE SUPREME COURT TO THE CONTRARY

VI

WHETHER OR NOT RESPONDENTS' ACTS WILL DEPRIVE PETITIONER OF PROPERTY WITHOUT DUE PROCESS BY THE "EXPLANATORY BULLETIN" AS WELL AS EQUAL PROTECTION OF LAWS

The petition is devoid of merit.

At the outset, it bears noting that instead of assailing the Court of Appeals Decision by petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, petitioner lodged the present petition for *certiorari* under Rule 65.

[S]ince the Court of Appeals had jurisdiction over the petition under Rule 65, any alleged errors committed by it in the exercise of its jurisdiction would be errors of judgment which are reviewable by timely appeal and not by a special civil action of *certiorari*. If the aggrieved party fails to do so within the reglementary period, and the decision accordingly becomes final and executory, he cannot avail himself of the writ of *certiorari*, his predicament being the effect of his deliberate inaction.

The appeal from a final disposition of the Court of Appeals is a petition for review under Rule 45 and not a special civil action under Rule 65 of the Rules of Court, now Rule 45 and Rule 65, respectively, of the 1997 Rules of Civil Procedure. Rule 45 is clear that the decisions, final orders or resolutions of the Court of Appeals in any case, i.e., regardless of the nature of the action or proceeding involved, may be appealed to this Court by filing a petition for review, which would be but a continuation of the appellate process over the original case. Under Rule 45 the reglementary period to appeal is fifteen (15) days from notice of judgment or denial of motion for reconsideration.

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For the writ of *certiorari* under Rule 65 of the Rules of Court to issue, a petitioner must show that he has no plain, speedy and adequate remedy in the ordinary course of law against its perceived grievance. A remedy is considered "plain, speedy and adequate" if it will promptly relieve the petitioner from the injurious effects of the judgment and the acts of the lower court or agency. In this case, appeal was not only available but also a speedy and adequate remedy.^[6]

The records of the case show that following petitioner's receipt on August 18, 2000 of a copy of the August 10, 2000 Resolution of the Court of Appeals denying its Motion for Reconsideration, it filed the present petition for *certiorari* on September 15, 2000, at which time the Court of Appeals decision had become final and executory, the 15-day period to appeal it under Rule 45 having expired.

Technicality aside, this Court finds no ground to disturb the assailed decision.